



# Toward a Culture-Analytical and Praxeological Perspective on Decision-Making

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## Abstract

This article outlines a culture-analytical alternative in, and to, decision science. In contrast to the predominant individualistic and mentalistic conceptions of decision making an empirical and praxeological perspective is proposed. Beginning with empirical processes and situated practices of decision-making, this perspective aims to decenter the decision-making subject. The author revisits Harold Garfinkel's analyses of actual decision-making behavior amongst jurors in court proceedings and Ludwig Wittgenstein's reflections on rule-following to develop this critical perspective on decision-making necessities in contemporary culture and everyday life.

**Keywords** Decision science · Behavioral economics · Mentalism · Methodological individualism · Ethnomethodology · Rule-following · Practice theory · Praxeography

Analyzing what is usually termed decision-making is the preserve of decision science, a research area composed of economics, economic sociology, rational choice theory, and cognitive psychology (see, e.g., Mengov, 2015). Following the hegemonic cultural narrative of modernity, these strands of research depict decision-making in terms of methodological individualism and mentalism. Here, decision-making is construed as a predominantly mental activity which occurs, like 'planning' or 'reflecting,' in the mind of an individual actor, and as a pre-cursor to action. Action is perceived as a secondary realization of the previous, primary mental decision-making process. This perspective is exemplified in the standard model of the economic agent (see, e.g., Becker, 1993), who maximizes utility through independent action based

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on perfect information and rational calculation devoid of social relations. Although often criticized for oversimplification, the model owes its success to a process of rationalization in which *homo economicus* dominates not only in the economic realm but increasingly in non-economic social and cultural fields.<sup>1</sup> The rising popularity of the ‘rational decision-maker’ model in scientific, public, media, and everyday discourse accompanies and ratifies the historical development of a hegemonic culture of multiple options, decidability, and reflexivity. This process culminates in the rise of the modern decision-making subject, which—as Ulrich Beck wrote in *Risk Society* (1986)—must “learn, on pain of permanent disadvantage, to conceive of himself or herself as the center of action, as the planning office with respect to his/her own biography, abilities, orientations, relationships and so on” (1986: 135).

However, the standard model of the economic agent has been highly controversial and criticism from within decision science itself is on the rise (Hayes, 2020). One important critique comes from behavioral economics,<sup>2</sup> which highlights the anomalies of choice and the ‘irrationality’ of actors who are usually led by emotions and often misconceive information that should assure rational decisions. To counter this, behavioral economists call for an integration of cognitive psychology to attain a more realistic idea of the decision-maker.<sup>3</sup> Psychologically enhanced models draw on the concept of bounded rationality (Simon, 1955), and consider the framings and contextual arrangements of decision-making, which may be manipulated to nudge actors towards a desired direction (Thaler & Sunstein, 2008). They incorporate assumptions about universal cognitive processes occurring in the minds of individual actors to explain e.g., loss aversion, riskless choice, quest for immediate gratification, and other constraints of rational decision-making (Kahneman & Tversky, 1979; Thaler & Shefrin, 1981). The integration of cognitive psychology reacts to the crisis and criticism of the standard model, which is held to be empirically refuted and strives towards a more realistic understanding of decision-makers. Yet the empirical turn in behavioral economics gets stuck halfway, as it does not deal with actual decision-making in social contexts, relying instead on standardized and highly controlled laboratory-based experimentation (Friedman & Cassar, 2004). What is more, behavioral economics’ critique of the standard model remains itself within the limits of methodological individualism and mentalism. Thomas Kuhn (1962: 77–91) observed how long-disputed theories of normal science are

<sup>1</sup> For instance, Max Weber (1908/1988) assumed that in the course of the process of rationalization the model of rational utilitarian action sets out to describe social reality in a more and more accurate and compelling way.

<sup>2</sup> According to Heukelom (2014), the rigidly abstract and empirically disproved standard model sowed the seeds for psychological criticism of the idea of the economic agent, which gave rise to behavioral economics.

<sup>3</sup> Accordingly, Drobak and North (2008: 132) explain regarding judicial decision-making: “In order to understand fully how judges decide cases, we need to understand how the mind works. We need to know how judges perceive the issues involved in lawsuits, how they see competing priorities and available choices, and how they make their decisions. These are the same questions involved in understanding human decision-making in general. Behavioral psychologists and cognitive scientists have studied decision-making for centuries, but our knowledge of the brain’s processes is still very primitive”. I owe this quote to André Krischer (2019) and his informative and inspiring praxeological study on decision-making in eighteenth-century British court proceedings.

nevertheless modified, defended, and conserved repeatedly, eventually leading to a sudden paradigm shift. In similar vein, behavioral economics seems eager to provide auxiliary hypotheses from cognitive science to justify, defend, and/or rescue the already falsified and disproved paradigm of ‘normal’ decision science, turning a blind eye to actual, situated decision-making practices.

This article focuses on this hitherto disregarded empirical line of inquiry. I set out a cultural analysis and praxeological perspective that deviates from decision science, enabling empirical observation and re-description of actual decision-making processes. To recapitulate, these are processes that mainstream decision science construes as unobservable operations taking place in a mental ‘planning office’ within individuals’ heads, preceding action and—consequentially—are regarded as only retrospectively understandable from the outcome, which is seen as documenting such hypothetically assumed operations. My argument is divided in the following manner. First, I will explain the rise and spread of individualistic and mentalistic conceptions of decision-making in scholarly work and everyday life against the backdrop of the convergence between the predominant cultural pattern of individualism in Western societies, and the individualistic vocabularies of the social sciences (1). I will then outline epistemological and methodological relations between individualism and mentalism (2) before describing sociological approaches to decentering the decision-making subject and tracing movements that disengage from the prevailing individualistic paradigm by critiquing mentalism (3). Fourth, I will propose a praxeological and empirical perspective, as well as an analytical decoding of members’ methods of decision-making activities and processes. Here I will refer to Harold Garfinkel’s (1967: 104–115) analyses of the actual decision-making behavior of jurors in court proceedings (4). In the fifth and final section, I derive some critical questions from my praxeological and culture-analytical perspective on decision-making, drawing on Ludwig Wittgenstein’s (1953) reflections on rule-following (5). These questions are particularly relevant given the frequently described omnipresence of choices and decision-making necessities in contemporary culture and everyday life and form the bulk of my reflections. Among others, such questions are: How exactly are participants’ social activities reported and accounted for *ex post* as consequences of previous mental activities of decision-making? And how is this accounting and its effect of reality linked with ‘binding,’ ‘calling to account,’ ‘holding responsible’ and the related mechanisms of power and subjectification?

## The Cultural Pattern of Individualism and Individualistic Sociologies of Decision-Making

An important research tradition in sociology is investigating the relationships between individualism and modernity and referring to cultural individualism—from an analytical distance—as a modern belief and value system. For instance, Émile Durkheim argues that “as all the other beliefs and all the other practices take on a character less and less religious, the individual becomes the object of a sort of religion. We erect a cult in behalf of personal dignity which, as every strong cult, already has its superstitions” (1893/1964: 172). Modern society gives its members a

sacred aura: the individual “is here placed on the level of sacrosanct objects” (Durkheim, 1898: 6; see also Lukes, 1969: 22). For Durkheim, the cultural individualism of modernity does not derive from individual egotistical feelings but from collective social ones. It permeates all social life and its moral organization, and functions as a social cosmology, a cultural mechanism of integration, and the necessary doctrine of modern society.

In the 1970s and 1980s, a series of influential studies continued the Durkheimian research tradition into the culture of individualism (Bellah et al., 1985; Lasch, 1979; Sennett, 1977). These works examine the surge of individualistic norms and interpretative patterns as well as the foundations and rise of individualistic self-descriptions in certain cultural milieus. An informative case within the sociology of individualism is Beck’s (1986) individualization theory, formulated around the same time. Whether individualization should be understood as a de-facto erosion of social bonds or as a new cultural mode of self-discussion and self-reflexivity in certain social milieus is unclear within Beck’s diagnosis (Joas, 1988), and this ambivalence reveals Beck’s lack of analytical distance from the phenomena he describes. To the extent that he himself uses an individualistic means of description, his diagnosis becomes part of the set of phenomena that he claims to decipher analytically. The individualization thesis boils down to an individualistic description of society—particularly successful and finding favor in individualized social milieus—that reproduces the individualistic doctrines and self-descriptions of social milieus and institutions and fails as a sociological analysis of individualism.<sup>4</sup>

Other influential social science approaches in which individual decision-making behavior plays a key role, such as Analytical Sociology or Rational Choice Theory, further reduce the distance to and difference from the cultural pattern of individualism. Here, cultural individualism enters the respective analytical vocabularies as an un-problematized resource.<sup>5</sup> This puts the methodologically individualistic sociologies in a position to offer extremely successful groundwork for social institutions shaped by the same culture of individualism. In contemporary Western societies, all important social institutions and subsystems (e.g., economy, law, politics, education and health systems etc.) are founded on cultural individualism. They address consumers, clients, or voters and provide for individualistic membership roles. Individualistic sociologies join in by researching the individual decisions of market

<sup>4</sup> Beck’s (1986) individualization narrative is therefore neither true nor false, but itself a product of individualistic culture, and does not muster the necessary analytical distance to describe this culture as such (see also Ehrenberg, 2011). Sociology, instead of designing a counter-mythology to the individualization thesis as is often the case (for example, by conjuring up strong social bonds in certain class milieus), should—as Ehrenberg demands—examine the foundations of the success of the individualization thesis. These foundations consist not least in the vividness of the thesis in everyday life, i.e., in the fact that the descriptions of individualization do not distance or trouble the participants’ individualistic patterns of interpretation but adopt and confirm them.

<sup>5</sup> The same applies to Popper’s philosophy of science. A personalistic motive dominates his methodological individualism: in the struggle against totalitarian systems and ways of thinking, the irreplaceable value of the human person must be defended—entirely in accordance with, and as a confirmation of, Durkheim’s analysis of the sacrosanct status of the individual in the culture of modernity (see Buzzoni, 2004).

participants, legal entities, or customers.<sup>6</sup> On the one hand, this *going native*<sup>7</sup> makes individualistic sociologies highly successful because they speak the language of their clients, serve their self-, situational, and problem definitions, and offer institutionally tailored data and expertise. On the other hand, they risk being absorbed into their social and cultural environment and destroying their potential capacity and credibility as reflective sciences of the social.

In recent years, some highly respected studies have drawn attention to the negative aspects of the continuing success of individualist sociologies, translating to a loss of analytical distance and dwindling analytical capacities in sociological analyses of the present-day (see, e.g., Ehrenberg, 2011; Marchart, 2013; Reckwitz, 2017). The studies point out that the surge of individualistic sociologies is linked to an “expulsion of the social from the social sciences” and a “transition from the social to the market model” (Marchart, 2013: 9). In cultural anthropology, de Coppet (1992; as cited in Ehrenberg, 2011) observes that “the recent penetration of extreme tendencies of modern individualist ideology into the discipline of sociology has been accompanied by an increasing difficulty in expressing in contemporary Western languages what a society is” (Ehrenberg, 2011: 346).

In terms of the individualization thesis and methodological individualism, the loss of analytical distance to the social myth of individualism (Cortois, 2017) as well as the unthinking adoption of cultural patterns and decision theories prevailing at the object level is a constitutive danger for, and common risk of, sociological analyses. As a set of social practices of *doing science*, sociology is always part of its own object. This object—sociality—exists only as a variable object that has always (already) been reinterpreted and interpreted anew by the participants. It does not exist separately from these interpretations, in which sociologists—as scientists and as everyday participants—are also involved. Sociality likewise becomes accessible to sociological analyses only through the participants’ interpretations. However, sociology cannot simply adopt and reproduce these interpretations. Rather, the possibility of sociological knowledge depends on the ability to take the participants’ interpretations seriously and at the same time methodically create a distance from

<sup>6</sup> As Fourcade (2016) makes clear, the accelerated generalization of ordinal technologies and the digital revolution currently form the backdrop for an overproduction of behavioral data. In this abundance of actor-related data, individualism can flourish splendidly. For example, the principle of success and failure does not seem to be anchored in social situations or processes, but in the entity that is being ranked: the individual.

<sup>7</sup> Rational Choice Theory freely admits this *going native*, i.e., the incorporation of cultural participant interpretations and self-understandings into the sociological conceptual framework and considers it an advantage that increases the acceptance of individualistic sociologies. In his overview of Rational Choice Theory, Braun (2009) explains that social entities such as “groups, organisations and societies [...] are based on an image of the human being according to which individuals tend to act intentionally, and in a stimulus-driven manner, and can therefore generally be deterred from socially disagreeable behaviours [...] by adequate sanctions” (2009: 395). RC theory for Braun is openly based on this individualistic view of humans cultivated by social institutions: “It is not surprising that this view of human beings has also been reflected in sociological theory formation. The term ‘Rational Choice’ (RC) serves as a collective term for a kind of theory formation that assumes certain intentions and incentive-led decision-making behaviour under specified circumstances on the part of the respective actors [...] in order to explain the resulting social consequences” (2009: 395).

them in order to address them analytically.<sup>8</sup> Accordingly, a sociological analysis of decision-making must endeavor to understand decision-making processes at a marked distance from prevailing individualistic cultural interpretations and thus *not* as a predominantly mental activity of individual actors prior to action. It must dissociate itself from these participant understandings and examine them as aspects of the cultural constitution of the phenomenon to be analyzed, namely decision-making processes and practices.

## Methodological Individualism and Mentalism

In individualistic sociologies, the individual appears in various guises. It functions not only as a self-evident starting point for sociological analysis and as the smallest indivisible unit of the social, but often also as an instance that attributes meaning. For this, it is equipped with an internal mental planning, decision-making and control center.<sup>9</sup> Such mentalistic conceptions assume an individual who weighs up, deliberates about, decides and acts, and whose actions are attributed to her mental inner being and viewed as mere realizations of previous inner processes (impulses of will and belief, motives, plans, intentions, etc.). They form a common feature of such different individualistic vocabularies as Social Phenomenology on the one hand and Rational Choice Theory on the other and characterize a socially widespread ethno-semantics and *folk theory of mind* (Malle, 2007).

Mentalistic individualism is based on the specific self-awareness of *homo clausus*. According to Elias, this self-awareness:

has been characteristic of ever wider circles of European societies since the Renaissance [...]. It is an experience that makes it seem to people that they themselves, their actual ‘self’, somehow existed in their own ‘interior’, and that the ‘self’ is separated in the ‘interior’ from everything that is ‘outside’, from the so-called ‘outside world’, as if by an invisible wall. This experience of themselves as a kind of closed casing, as *homo clausus*, seems to the people having it to be immediately obvious [...]. They don’t ask themselves precisely what about them is this enclosing casing, or what is enclosed in it. Is the skin the wall of the vessel that contains the actual self? Is it the skull, or

<sup>8</sup> Various procedures exist, ranging from epistemological techniques for constructing the object (Bourdieu et al., 1968), to ethnomethodological indifference (Garfinkel & Sacks, 1996), and procedures of alienation (Hirschauer & Amann, 1997).

<sup>9</sup> Yet, as Watson and Coulter (2008) make clear, mentalistic conceptions of individual decision-making and action are not necessarily linked to methodological individualism. For example, in Popper’s (1945: 104) conception, mentalism and psychologism are explicitly rejected. Popper’s concept of situational logic puts the relationship between human actions and their social environment at its heart—the place occupied in the mentalist vocabulary by the mental processing model of an isolated individual. According to Popper, the laws of social life cannot be reduced to psychological laws. Accordingly, no action can be explained by internal mental motivations alone, for these motivations are always related to social situations, environments, and institutions (see also Buzzoni, 2004).

the chest? [...] It's hard to say, because inside the skull there's only the brain (1970: 128).<sup>10</sup>

The historically specific cultural self-awareness described by Elias forms the basis of the notion of an 'inner' psychic apparatus that 'mentally causes,' trigger,s and directs 'outer' action and behavior. Mental processes of goal setting, deliberating about, and deciding would therefore be causal and precede action.<sup>11</sup> This is a momentous preliminary decision. Since the actual decision-making process is only regarded as the realization of plans and resolutions made in advance, it is also analytically neglected and remains empirically unnoticed. In what follows, I will therefore outline some important conceptual disengagements from mentalistic individualism and its actor theories of decision-making. This prepares a new praxeological perspective that focuses attention on actual decision-making processes and seeks to decipher their practical logics, materialities, resources, implicit forms of knowledge, and finally their member's methods.

## Decentering the Decision-Making Subject

The first disengagement leads from methodological individualism to methodological situationalism and from the individual actor to the social situation and its participants.<sup>12</sup> Such a situationalist decentering of the decision subject can be explained, for example, with reference to Erving Goffman's sociology of interaction. Goffman (1967) emphasizes the situativity of social interaction and the independence of social situations. What is decisive for their analytical decoding is not "the individual and his psychology, but rather the syntactical relations among the acts of different persons mutually present to one another. [...] Not, then, men and their moments. Rather moments and their men" (1967: 2f.).

<sup>10</sup> The assumption of many scientific and lay theories that the creation of meaning happens in a mental interior or in the head of the individual has been critiqued many times, for example as the "dogma of the Ghost in the Machine" (Ryle, 1949/2009: 5). In contrast to this dogma, praxeological approaches assume that the foundations of meaning are a public and observable process of interaction. There is thus—as Garfinkel (1963) notes in agreement with Elias—no reason to look inside the skull, for it contains "nothing [...] but brains" (1963: 190).

<sup>11</sup> Joas and Knöbl (2004) have criticized this teleological structure of scientific and common-sense theories of action, which can be traced back to Cartesian dualism, on pragmatic grounds. On closer examination, they propose abandoning the implausible assumption of a 'mental causation' of social action and thus not subordinating perception and knowledge to action, but rather regarding them as phases of action. Motives, plans, and decisions would therefore be "products of reflection in action situations and not (chronologically prior) causes of action" (2004: 712). The praxeological considerations for decision-making developed hereafter are linked to this revision of the causal and temporal logic of conventional decision theories.

<sup>12</sup> Popper (1957) also introduces the concept of "situational logic" (1957: 142) in his theory of social science. This concept serves to avoid mentalistic and psychological shortcuts to gain an independent concept of the social and its laws. Popper, however, explicitly characterizes his conception as an individualistic rather than a situationalist methodology. Individual actions are thus considered to be influenced by the situation, but Popper's approach is not based on the primacy, autonomy, and logic of the situation.

Goffman's perspective of a situationalist methodology thus shifts analytical attention from the individual actor and subject of action to the characteristics of the situation. According to his thesis, we do not understand social situations and their inherent logic if we think and describe them from the point of view of the individual actor. Rather, sensemaking and decision-making should be conceptualized as a shared, concerted, observable, and always also physical behavior of interacting, presenting, and interpreting by situation participants. It cannot be traced back to and derived from inner mental processes in the deciding and acting subject. Moreover, in situated decision-making, trans-situative framings, resources and knowledge orders are also situationally used (Goffman, 1974). Goffman's interaction analyses thus focus not only on moments and their men, but also on trans-situated frames of meaning and their situational modulations. Within Goffman's marked disengagement from methodological individualism, the decision-making subject is thus replaced by decentered participants in situated practices of decision-making.

Closely linked to situationalism is an understanding of situated practices of decision-making as public contexts of meaning (Schmidt & Volbers, 2011). Accordingly, social practices are integrated through shared cultural orders of knowledge and patterns of meaning. These are referred to as *tacit knowledge* (Polanyi, 1958/2002), *knowing how* (Ryle, 1949/2009), or *sens pratique* (Bourdieu, 2018). These patterns of competency, knowledge and meaning always appear as components of social practices, which also have mental components, but these do not have the status of independent mental entities.

From a practice-theory perspective, the mental components of practice-specific patterns of meaning are only ever available as publicly expressed and displayed mental components, depicted, manifested, witnessed, and ratified in communicative interactions.<sup>13</sup> At the same time, social practices are always realizations that express meaning, knowledge, and ability for the participants. The mental is thus not simply negated in practice-theory approaches; rather, its conventional epistemological status is revised: the mental figures as a mental manifested publicly in practices. Practical activities are therefore always also observed by participants as evidence of mental processes and states. The mental is thus publicly *accounted for*, i.e., made reportable and interpretable. Praxeological approaches therefore assume that processes of weighing up, deliberating, and deciding, just like all other occurrences of sensemaking, always have mental components. These mental practice components operate in the public realization of practices. They cannot be separated from the

<sup>13</sup> This public status of the mental follows on from the critique of mechanistic assumptions of causality, which assume a mental causation of action and behavior. As Watson and Coulter (2008) explain, this critique, expressed in ethnomethodology and partly also in analytical philosophy, resembles the critical argument advanced by MacIntyre (1962) against mechanistic conceptions of the relationship between beliefs and actions. The mechanistic conception assumes a chronological priority of, and a constant causal link between, beliefs and the actions caused by them. This conception assumes that beliefs and actions are separately identifiable and independently existing phenomena. If, on the other hand, we assume that actions *express* convictions, the mechanistic model collapses. Here, participants' beliefs are regarded as beliefs expressed in actions. The resulting new analytical task is then to decipher how exactly beliefs occur empirically in actual specific actions. How do participants in the process of cultural sensemaking and decision-making attribute motives, convictions, or decisions (assumed to be chronologically prior) to actions?

actual public doings, actings, and sayings and they cannot be segregated, or relegated to a hypothetical private inner mental core of the acting actor.

The outlined decenterings of methodological individualism, mental decision-making, and the deciding subject all form central procedural steps of praxeologization (Schmidt, 2016). This analytical procedure aims to enable material empirical re-descriptions and to develop new perspectives for reflection by re-positing phenomena and objects of investigation as sets of practices. Based on the question of ‘how exactly is decision-making performed?’, the praxeologization of decision-making processes brings distributed and concerted events into cultural analytic focus. Depending on the specific empirical and institutional setting they may involve different ‘decision-makers,’ such as counsellors, experts, lawyers, jurors, priests, pastors, psychotherapists, and their professional roles and tacit understanding, media, documents, official regulations, prescriptions and instructions, automated algorithmic and stochastic procedures, databases, materials, artefacts, architectures (i.e., court-houses, offices), etc. Praxeologization can train us to reconstruct these elements of decision-making practices<sup>14</sup> and their modes of connection and concatenation.

## The Methodological Nature of Decision-Making

The outlined praxeological decenterings and new perspectives thus extend the empirical view beyond the deciding subject to work out the material, technical, figurative, symbolic, and bodily components of actual decision-making processes. A further analytical challenge, however, is to decipher the specific methodology and practical logic of ‘decision-making’. Harold Garfinkel and Saul Mendlowitz have investigated the actual decision-making behavior of jurors in US jury trials, published as “*Some rules of correct decisions that jurors respect*” (Garfinkel, 1967: 104–115), which is very instructive with regards to this challenge.<sup>15</sup> The study was conducted in the context of a prestigious research project at the Law School of the University of Chicago from 1953 to 1954. The empirical data Garfinkel and Mendlowitz used as the basis of this study were not derived from laboratory-based experiments

<sup>14</sup> The so-called *element-based approach*, developed by Elizabeth Shove’s working group in Lancaster, distinguishes three classes of practice elements: *material* (including things, objects, infrastructure, tools, devices, and bodies), *competence* (i.e., practical knowledge and ability), and *meaning* (including the simultaneously mental, affective, and culturally meaningful dimensions of being involved in practices). For as long as a practice ‘lives’ and is carried out continuously, these elements are integrated and interconnected. However, practices also die and disappear as the connections between their elements erode or break. Individual elements, artefacts, documents, or monuments then sometimes remain as remnants and silent witnesses of dead earlier practices (and may become elements and bearers of newly emerging practices); see Shove et al. (2012).

<sup>15</sup> For more recent studies of actual jury deliberation and situational decision-making in the context of judicial proceeding see, e.g., Fox (2020), Maynard and Manzo (1993) and Travers and Manzo (2016).

but from actual concerted decision-making as it happened during juror's meetings and deliberations. Although the data were later characterized as illegal<sup>16</sup>—and their production certainly contradicts current standards of data privacy, research ethics, and informed consent—they provided unique analytical opportunities. Eberle (2021) reports that during the research project the juror's negotiation room had been bugged, all communicative interactions had been secretly taped and transcribed, and Garfinkel and Mendlowitz contrasted those transcripts of natural everyday interactions in their sequential flow with the transcripts of subsequent interviews of jurors who did not know that their previous conversations had been recorded. The object of their analysis are the member's (juror's) methods of concerted deliberation. They are grasped as meaningful occurrences in participant's behavioral environment, observably and audibly expressed in situative interactions and technically registered via taping.

The jurors that the study depicts are under pressure during court proceedings to arrive at a verdict that will comply with legal stipulations. They need to decide and answer questions as the following: What were the actual circumstances which led to the offence being committed? What were the real sequences of events? What is the actual extent of damage and harm that has been inflicted? How are statements of witnesses and expert's reports to be valued etc.? As the study illustrates, juror's decision-making behavior does not follow a predictable line even where there is a clear legal norm and a clear offence. On the contrary, it is always difficult for a jury to apply a rule of law to an offence. In the proceedings, jurors only gradually form an idea of how to understand the contradictions of the parties' statements. They weigh up relevant against irrelevant reasons, justified against unjustified objections, correct against incorrect statements, feigned against natural confessions, credible against untrustworthy statements, personal opinions against 'generally accepted opinions that any normal person would agree to,' etc.

In doing so, they employ common sense rules and rely on everyday methods of 'coming to a decision'. Such methods of deliberation and decision-making are not devoid of rationality but instead carry out a situative, practical rationality that differs from narrow cognitivist understandings of rational action and decision-making. This includes economically making use of "what everyone knows" (Garfinkel, 1967: 108), reducing the variables defining the problem to a minimum, and only employing as much logic or calculation as is practical for solving the pressing questions at hand.<sup>17</sup> Thus, jurors produce a version of the relevant event on which they eventually agree and which all jurors consider 'actually to have happened' and simultaneously, they feel called upon to comply with the "official juror line" (Garfinkel, 1967: 108) of decision-making and render their deliberations identifiable and accountable as juror's deliberations.<sup>18</sup>

<sup>16</sup> As Mendlowitz pointed out in an interview in 2009, although the secret taping was permitted by the judges, the jurors were not asked for their consent (see Eberle, 2021: 110).

<sup>17</sup> Such findings of the juror study concur with Bourdieu's (1977) characterization of the principle of the economy of practical logic, "whereby no more logic is mobilized than is required by the needs of practice (...) and by the practical relation to the situation" (1977: 110).

<sup>18</sup> "What in their decision-making practices makes jurors jurors?" can be considered the basic question of Garfinkel's and Mendlowitz's study.

The assumption that jurors in the first instance develop a clear picture of what the conditions must be like for them to make any decision is therefore—as the study of Garfinkel and Mendlowitz shows—empirically not plausible. Rather, it appears only afterwards as though, on condition of being as well informed as possible about the event to be assessed, a decision rule had been applied and a decision strategy followed. The actual decision-making processes that were analyzed in the juror study emerge as informed, rule-guided, consistent, and goal-orientated processes only in performative backward projection. As the authors bring to the point:

the outcome comes before the decision. In the material reported here, jurors did not actually have an understanding of the conditions that defined a correct decision until after the decision had been made. Only in retrospect did they decide what they did that made their decisions correct ones. When the outcome was in hand, they went back to find the ‘why’, the things that led up to the outcome, and then in order to give their decisions some order, which namely, is the ‘officialness’ of the decision. (1967: 114).

The jurors subsequently give their preceding activities the ‘official’ character of a weighing-up based on the greatest possible information and a rule-based decision taken between alternatives. Jurors classify their activities only retrospectively as criterion-based weighing-up processes and rule-based decisions. This is to ensure that the results of these activities can then be treated and handled as the results of weighing-up and decision-making processes. This procedure serves not least to subsequently justify the corresponding activities and courses of action and it endows the outcome of these activities with additional binding effects.

The retrospective search for the deciding, intentional, rule-guided, and logical character of an approach often plays an important—but unacknowledged—role in sociological research processes as well. As Garfinkel shows in the chapter before the juror study, research action is always subject to the conditions of urgency and incomplete information: something must be accomplished within a certain time-frame and coordinated with others. The risk of unwanted results must be managed, and the procedures and their results must be justified to third parties (donors, etc.) “in procedures of reasonable review” (1967: 99) concerning research practice and research economics. Research practices share these characteristics, problems, and constraints with “common sense situations of choice” (...), but “textbook and journal discussions of sociological methods rarely give recognition to the fact that sociological inquiries are carried out under common sense auspices at the points where decisions about the correspondence between observed appearances and intended events are being made” (1967: 100).

Resourceful ways of dealing with these problems and the constraints of research practice often consist in not assigning to the research process decisions made in advance on certain conceptual and methodical designs until the research report or journal article has been written. Based on this publication, the process then looks logical. In comparable practical strategies, however, researchers may also start by regarding a certain intermediate stage of a research process as desirable. They then declare this intermediate state to be the goal towards which all research activities undertaken so far were orientated. The intermediate status then ‘documents’

previously made correct or astute research-practical and research-economic decisions.

Jury deliberations and decisions in sociological research projects are manifestly inter-personal and non-individualist and could therefore be regarded as exceptions to individualist and mentalist decision making. To prevent or counter such a misleading view, I turn to an example of seemingly more individualistic decision-making, that of the decision to buy a house. The decision to buy or not seems a plausible empirical instance for solitary decision-making and individualistic accounts. Yet reconsidering and praxeologizing house-buying decisions brings a network of interconnected ‘co-producers’ and a sequential, multi-sited, socio-material process to the fore.

Far from constituting a single event of executing the outcome of an internal weighing-up of costs and benefits, a house-buyer’s decision-making process can be understood and depicted as fanning out in multiple sequences of both reversible and non-reversible steps. In this temporal linkage of accomplished, reconsidered and revoked steps, of subsequent doings and un-doings, it is hardly possible to identify a single event in which the decision to buy becomes manifest—is it at the moment of contemplating the purchase after a chat with a friend or ongoing negotiations with family members, is it the mutually assured buying intention of a freshly married couple after a romantic candle-lit dinner, or is it during the signing of a loan agreement or inking of the purchase contract? What is more, there is—as various qualitative and ethnographic studies of house-buying indicate (e.g., Cantauw et al., 2019; Heinemann et al., 2019; Wilk, 1987)—a variety of cooperating and competing participants involved: experts and consultants, fiscal agents, realtors, notaries, solicitors, architects etc. Decision-making on house-buying is made up of multi-local and observable instances and social situations; it takes place at and accrues from offices, living rooms and viewing appointments on site, it involves rules, norms, shared understandings and patterns of interpretation, and it includes material co-producers of decisions like draft contracts and agreements, layouts and floor plans, land-use-plans, certificates of land ownership, expert’s reports on building conditions, income statements, credit ratings etc. The decision-making process compiles and constantly re-arranges doings and sayings, instances and documents. With the outcomes of this process in hand participants might then go back to identify ‘the actual event of the buying decision’ (the candle-lit dinner?) and to find the ‘why’ in performative retro-projection.

Empirically praxeologizing (seemingly individualistic) decision-making must reach beyond individualistic modes and methods of research. The house-buying sketch above exemplifies a construction of the object (Bourdieu et al., 1968) of decision-making *as* public, observable social process, and a corresponding empirical praxeography (Schmidt, 2011). This method seeks to create a distance from participants’ ‘inner’ motives, convictions, and deliberations (while still taking their referencing of such mental aspects seriously) and instead privileges types of data that account for everything that is manifest, public, and observable in what participants do. Praxeography would combine interviewing, mapping of social arenas, situations, and the human and non-human participants (Clarke, 2005) of decision-making and could e.g., engage in fieldwork, document analyses and participant observations in

offices, at family dinners, during viewing appointments or customer meetings in real estate agencies.

## The (Cultural) Reality Effects of Decision-Making

The methods of performative retroprojection in juror decision-making depicted by Garfinkel, his considerations on the documentary methods employed in the resourceful interpretation of the data and the intermediate states generated in the research process, and the house-buyer's retroactive identification of a single 'moment of decision' all gain further plausibility through Wittgenstein's considerations on rule-following. Garfinkel's *Studies in ethnomethodology* corresponds with Wittgenstein's view of rules, especially the non-mentalist and praxeological understanding of rule-based decision-making processes. To demonstrate this, the fundamental distinction between *regulatory* and *constitutive* rules must be explained. Court proceedings form institutional rule systems that regulate individual actions, ensuring the continuity and stability of social relations. Accordingly, actors choose actions that external *regulatory* rules impose on them. To explain the relationship between such institutions and the individual actions of their members, sociology relies on either the purpose-oriented model (*homo oeconomicus*) or the norm-oriented model (*homo sociologicus*) (Hollis, 1994; Reckwitz, 2000), whereby in each given situation, actors orient themselves either toward utility maximization or toward socially and institutionally appropriate norms. Regulatory rules then externally influence the possible courses of action taken by self-contained, self-confident, and capable actors.

Cultural-analysis approaches operate on a different understanding of rules. They assume that both the purposeful, value-rational, and /or norm-oriented actions *and* the self-confident, self-contained, and capable actors performing them are continuously constituted, realized and (de- and re-) stabilized. This occurs within a symbolic-discursive order, cultural reality, or lifeworld composed of sets of *constitutive* rules that contain and generate the actions as well as their protagonists. At the same time, constitutive rules apply only to the extent that these regulations and action adjustments are carried out in a continuous way. The validity of constitutive rules is thus anchored in the ongoing accomplishment of social practices.

Both deciding, acting subjects and social 'objects' (e.g., profession, marriage, crime, etc.) have a performative mode of existence within these "constitutive orders of sensemaking" (Rawls, 2011: 396). This means they only exist when participants in situated social practices align themselves with constitutive shared expectations and perform their activities in such a way that other participants recognize these as *enactments* of a certain social object (Rawls, 2009). Constitutive orders structure the "seen but unnoticed background expectancies" (Garfinkel, 1967: 37) and sustain the stable features of everyday activities.<sup>19</sup>

<sup>19</sup> Garfinkel (1967) refers to Alfred Schütz to clarify how such constitutive orders and background expectancies can be brought into analytical perspective: "For these background expectancies to come into view one must either be a stranger to the 'life as usual' character of everyday scenes or become estranged from them. As Alfred Schutz pointed out, a 'special motive' is required to make them problematic. In the sociologists' case this 'special motive' consists in the programmatic task of treating a societal

In cultural-analysis approaches then, the regularity and orderliness of collective action is *not* therefore due to a conscious, calculated and intellectually self-reflexive adherence to rules which externally regulate already constituted actors or force them to adapt. Wittgenstein's later philosophy, for instance, departs from conventional mentalist and intellectualist views which assume conscious and calculated rule-following and see rules as abstractions, existing independently of the activities and practices that allegedly observe them. Wittgenstein rejects the separation of rule-following into rules on one hand and their observance on the other.

The assumption that a rule, mediated by an act of interpretation, can determine on its own which behavior is appropriate for it leads to the paradox that "every course of action can be made out to accord with the rule" (Wittgenstein, 1953: 201). Essentially the interpretation only replaces the original expression of the rule; it would have to be reinterpreted to apply to a specific case or situation, or else an additional rule would have to be formulated to interpret and apply the original rule to the specific case. It follows that "interpretations by themselves do not determine meaning" (Wittgenstein, 1953: 198). Previously established behavior patterns and routines, "customs (conventions, institutions)" are decisive for constituting rule requirements, i.e., the actions and behaviors required by the rule: "hence [...] 'obeying a rule' is a practice" (1953: 202). Social practices therefore play a decisive role in the establishment and implementation of rule requirements. Rules are developed retrospectively from the expressive, intelligible, publicly meaningful, practical social behavior that is then retroactively recognized, classified, and authenticated as 'rule-following' (i.e., behavior that conforms to the rule). Puhl (2002) describes this retroactive correlation as the ruse of the rule.

From the praxeological perspectives of both Garfinkel and Wittgenstein, it is possible to derive some pertinent questions for decoding actual decision-making behavior. What role do rules play in creating decidability in institutional and organizational settings (such as court proceedings, research funding, journal peer reviews, etc.)? How, and to what extent, should not only *regulatory* rules and (methodical) procedural prescriptions, but also *constitutive* cultural rules be analytically assessed while analyzing actual decision-making? Both Garfinkel and Wittgenstein consider the production of decision alternatives and rule requirements to be components of decision-making practices. However, it seems decision alternatives and rule requirements already exist prior to the actual decision-making process (as its prerequisites)—they thus have a specific retroactive status. Conditions, facts, decision alternatives, and rule requirements arise retroactively as reference points for these (decision) processes and practices, which are continuously produced during decision-making and identified in advance.

The praxeological perspective on decision-making proposed in this paper goes beyond working out the material resources and cultural routines or advancing

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Footnote 19 (continued)

member's practical circumstances, which include from the member's point of view the morally necessary character of many of its background features, as matters of theoretic interest" (1967: 37).

material empirical re-descriptions of decision-making processes to shed light on how these are brought about by an interplay of various human and non-human decision-makers, artefacts, media, and technologies. It posits far-reaching critical questions against the background of the omnipresence of choices and decision alternatives in everyday life, frequently described in sociological diagnoses of the present. How are specific social activities retrospectively identified (by participants as well as the mainstream of social and economic sciences) as being the results of prior rule-based decisions between existing alternatives, and as decision consequences? How exactly do these activities serve as a posteriori documentation for participants' decisions made in advance? What can be said about the rules constitutive for such formulations, retroactive placings, and documentary methods? What social effects of realization, authentication, legitimization, and what power effects of responsabilization and subjectivization are enacted with such positings?

There is some evidence that, under the cultural hegemony of individualism described at the beginning, the institutional settings and arrangements of *correct decision-making* are being generalized in contemporary everyday life.<sup>20</sup> This generalization makes the demands that jurors face in Garfinkel's study a basic social constellation. In all possible social contexts, the *accomplishment* of decisions must succeed constantly. It must be carried out according to rules and methods recognized by the participants, i.e., it must be adapted to the rule requirements which are co-produced in the respective decision settings. But can the accomplishment and implementation of such decisions then not also consist of the fact that socially imposed precarious or restrictive working/living conditions are brought into the form of decision alternatives, and that participants are left to embrace these impositions methodically and retroactively as the result of their previous decisions? A critical praxeology must prove itself a procedure that reflects and decodes such effects of reality and power, which especially characterize decision-making practices and point to a cultural mechanism of responsabilization and subjectivization.

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<sup>20</sup> In this context and as constructions, Garfinkel's and Wittgenstein's interpretations of rules are remarkably similar to Foucault's (1975) power analyses. As Puhl (2002) points out, "The way in which Foucault's analysis of power represents the relationship of power to what it causes and regulates can be described structurally similarly to the relationship between rule and rule-following in Wittgenstein" (2002: 97). Just as rules and rule requirements are constituted and immanent in practices but have a regulating effect on them, so does power exist in a productive and inherent relationship to the field of its applications. Power produces forms of knowledge and subjects that it regulates, and simultaneously produces itself to the extent that "it succeeds in repeatedly asserting itself in a regulating manner" (Puhl, 2002: 98). The interplay of rules and rule-following in Garfinkel's and Wittgenstein's understandings, as that between power, knowledge and subject in Foucault's analyses thus share productive reality effects.

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